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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,712	12/30/2003	Sandra A. Richlen	659-1149	2103

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

EXAMINER

CHAPMAN, GINGER T

ART UNIT PAPER NUMBER

3761

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/748,712

Applicant(s)

RICHLEN ET AL.

Examiner

Ginger T. Chapman

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 29 is/are pending in the application.
- 4a) Of the above claim(s) 11-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-19 and 29 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/12/04 & 3/7/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I absorbent article having an absorbent insert, and species 1 directed to an absorbent insert connected to front and rear body panels with first and second adhesive regions wherein the second adhesive basis weight is greater than the first adhesive basis weight, in the reply filed on 14 December 2005 is acknowledged.

Accordingly, claims 11-19 are withdrawn from consideration as directed to a nonelected species.

Status of the claims

As per applicants amendment filed 14 December 2005: claims 20-28 are cancelled; newly submitted claim 29 is added; claims 11-19 are withdrawn from consideration as directed to a nonelected species; claims 1-10 and 29 are examined on the merits.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Balogh et al (US 6,755,808) in view of Sigl et al (US 4,437,860).

With respect to claim 29, Balogh et al disclose an absorbent garment comprising: a front body panel (4) comprising a terminal waist edge (20) and a terminal crotch edge (16); a rear body panel (6) comprising a terminal waist edge (18) and a terminal crotch edge (14); wherein the terminal crotch edge of the rear body panel is longitudinally spaced from and forms a gap (34) with the terminal crotch edge of the front body panel (col. 4, ll. 28-30); and an absorbent insert (50) comprising first and second longitudinally spaced end portions (56, 58) and opposite laterally spaced side edges (52, 52), wherein the absorbent insert (50) bridges the gap between

the front and rear body panels (4, 6) with the first and second end portions (56, 58) overlying and connected to the front and rear body panels respectively (col. 12, ll. 26-46); wherein at least one of the first and second end portion of the absorbent insert (50) is connected respectively to a corresponding one of the front and rear body panels with at least first (76) and second (78) adhesive regions.

Balogh discloses first and second adhesive regions but does not expressly disclose the first and second adhesive regions having first and second corresponding adhesive properties respectively wherein the adhesive properties have different values. Sigl et al, at column 3, lines 22-26 teaches the ability of adhesive to be applied at different concentrations and different patterns at different regions to provide different properties at each region thus disclosing the desire and motivation to use adhesive to optimize the desired property at each region. Sigl et al teach first and second regions (32a, 32b) having first and second corresponding properties (col. 4, ll. 13-27) and further teaches at col. 4, ll. 60-66 that relatively stiff adhesive imparts properties of greater rigidity to regions of the diaper and more flexible adhesive imparts properties of greater conformability to selected regions of the diaper. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the adhesive in the article of Balogh having different properties as taught by Sigl since Sigl states at column 4, lines 17-20 that the advantage to providing a diaper with this design is optimizing the adhesive application in selected regions of the diaper to select for different properties.

Claims 1-5 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balogh in view of Sigl as applied to claim 29 above, and further in view of Kerr et al (WO 99/32062).

With respect to claim 1, the combination of Balogh and Sigl disclose an absorbent garment having first and second adhesive regions having adhesive properties having different values but do not expressly disclose basis weights. Kerr et al at page 2, lines 14-23 expresses the desire and motivation to optimize adhesive distribution for an absorbent garment to provide secure attachment of components while minimizing the amount of adhesive required (p. 3, ll. 20-36). As seen in Figures 1-4, Kerr et al disclose first and second corresponding adhesive properties of the first (4) and second (3) adhesive regions comprise first and second basis weights wherein the second adhesive basis weight is greater than the first adhesive basis weight (p. 5, ll. 9-17). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the adhesives of Balogh and Sigl comprising first and second basis weights as taught by Kerr since Kerr teaches at page 5, lines 9-17 that adhesive can be applied at high basis weight to the areas of the garment that are exposed to high stresses and applied at lower basis weight in the regions that experience less stress in order to provide secure attachment and minimize the amount of adhesive required.

With respect to claim 3, the combination of Balogh and Sigl in view of Kerr discloses a first adhesive basis weight between about 5 gsm and about 15 gsm (p. 12, l. 2) and a second adhesive basis weight between about 20 gsm and about 50 gsm (p. 12, l. 1).

With respect to claims 2, 4, 5, 9 and 10, Kerr teaches at p. 3, ll. 20-24; p. 4, ll. 14-36; p. 5, ll. 8-17 that optimal distribution of adhesive in the known process of balancing parameters of adhesive performance and breathability in the peripheral and central regions of a particular garment can be optimized by applying adhesive at high basis weight to areas of the garment

Art Unit: 3761

exposed to high stresses such as the periphery and at areas where high breathability is not required, and applying adhesive at low basis weight in the central regions where the garment experiences less stress and where high breathability is required. In view of the teachings of Kerr et al, discovery of the optimum location and application of adhesive in a particular garment in the known process of joining the garment would have been obvious to one of ordinary skill in the art at the time the invention was made, since Kerr states at p. 5, ll. 8-17 that the advantage to forming a garment with this design is that the amount of adhesive required can be minimized by providing at least two zones of differing adhesive basis weight applied to the surfaces of the garment to be joined such that adhesive can be applied at high basis weight to areas exposed to high stresses where high breathability is not required and applied at low basis weight at areas with less stress and where breathability is required thus optimizing distribution of the adhesive by providing secure attachment while minimizing the adhesive required for a particular garment.

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balogh in view of Sigl in view of Kerr as applied to claim 1 above, and further in view of Van Gompel et al (US 2004/0122401 A1).

With respect to claims 6-8, the combination of Balogh and Sigl in view of Kerr disclose the insert connected to the front and rear body panels but does not expressly disclose the body side of the absorbent insert connected to a garment side of the front and rear body panels. Van Gompel discloses the absorbent insert (50) comprises an outer layer (68) comprising a stretchable material (p. 6, [0065], ll. 1-5) as recited in claim 6; and, at p. 7, [0074] discloses the ability of the body side of the insert (50) to be connected to a garment side of the

Art Unit: 3761

front and rear body panels (4, 6) and alternatively, the garment side of the insert (50) connected to a body side of the front and rear body panels (4, 6) thus disclosing a desire for either the body or garment side of the insert to be connected to either the garment or body side of the front and rear body panels, respectively. At the time the invention was made, it would have been obvious to one having ordinary skill in the art to provide the body side of the insert connected to a garment side of the panels or the garment side of the insert connected to a body side of the panels because applicant has not disclosed that either provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either a garment side of absorbent insert connected to a body side of front and rear body panels or the body side of the absorbent insert connected to a garment side of the front and rear body panels as taught by Van Gompel because both configurations perform the same function of securing the insert to the body panels.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Malcolm et al (US 5,057,571) discloses at col. 3, ll. 9-50 that to optimize performance, conventional construction of diapers requires separate adhesives having different properties to satisfy requirements of elasticity and bonding strength.

Repke et al (US 4,205,679) discloses in Figures 5, 7, 9-10 and 13-15 the use of adhesives having differing properties: elastomeric adhesive (col. 7, ll. 7-9) for securing components and providing additional stretchability in the leg area, a hot melt adhesive to prevent layers from

Art Unit: 3761

moving relative to one another (col. 10, ll. 50-52) and adhesive binder to impart liquid impermeability to diaper blanks during diaper manufacture (col. 7, ll. 14-28).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571) 272-4934. The examiner can normally be reached on Monday through Friday 8:30 a.m. to 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ginger Chapman
Examiner, Art Unit 3761
03/13/06



TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

